

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District Southern District of Texas	
Name (under which you were convicted): Kevin Lyndel Massey		B - 17 - 190	Docket or Case No.: 1:14-cr-876-1
Place of Confinement: FPC Seagoville, Texas		Prisoner No.: 76555-379	
UNITED STATES OF AMERICA		Movant (include name under which convicted) Kevin Lyndel Massey	
V.			

MOTION

**United States District Court
Southern District of Texas
FILED**

1. (a) Name and location of court which entered the judgment of conviction you are challenging: SEP 11 2017

United States Courthouse
600 E. Harrison St. Room 1158
Brownsville, Texas 78520

David J. Bradley, Clerk of Court

(b) Criminal docket or case number (if you know): 1:14-cr-876-1 or B-14-876-1

2. (a) Date of the judgment of conviction (if you know): September 30, 2015

(b) Date of sentencing: January 4, 2016

3. Length of sentence: 41 Months

4. Nature of crime (all counts): 18 USC (g)(I) x 2 or 2 by conviction

5. (a) What was your plea? (Check one)

(1) Not guilty ☒

(2) Guilty ☐

(3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge only ☒

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☒ No ☐

8. Did you appeal from the judgment of conviction? Yes ☒ No ☐

9. If you did appeal, answer the following:

- (a) Name of court: 5th Circuit Court of Appeals
- (b) Docket or case number (if you know): Unknown
- (c) Result: Affirm Conviction
- (d) Date of result (if you know): February 22, 2017
- (e) Citation to the case (if you know): 849 F.3d 262 (case citation)
- (f) Grounds raised:
1. Insufficient Evidence
 2. Texas Penal Code
 3. Error in denying Motion to dismiss indictment

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No ☐

If "Yes," answer the following:

- (1) Docket or case number (if you know): Unknown
- (2) Result: No Action
- (3) Date of result (if you know): Unknown
- (4) Citation to the case (if you know): Unknown
- (5) Grounds raised:
- (A) Whether 2nd Amendment forbids government from banning for life any possession of firearms convicted of State felony crimes.
 - (B) Whether Commerce Clause powers extends to cover felons possessing firearms for life

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: _____
- (2) Docket or case number (if you know): _____
- (3) Date of filing (if you know): _____
- (4) Nature of the proceeding: _____
- (5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

-
12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

Federal Government being wholly void of jurisdiction

GROUND ONE: Federal Government being wholly void of Jurisdiction

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Lack of Federal Jurisdiction in violation of U.S. Constitution's grant of Jurisdictional authority, Article I § 8, Cl. 17 (Federal enclave clause), Article III, § 2, Cl. 1 (admiralty and Maritime jurisdiction), Article IV, § 3, Cl. 2 (property clause); See Attachment 1

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Ineffective assistance of counsel-clear Court records of my objection;

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND TWO: Violation of U.S. Constitution's enumerated powers to
the Federal Government in excess of the principles of Federalism

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

See Attachment 1

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Inarticulate, ineffective assistance of government
 provided counsel

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE: Violation of duty of the United States government to
uphold my rights against government incroachment.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

See Attachment 1

(b) Direct Appeal of Ground Three:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

- (2) If you did not raise this issue in your direct appeal, explain why:

Inarticulate, ineffective assistance of government
provided counsel.

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

-
- (3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

- (4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

- (5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

- (6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

Therefore, movant asks that the Court grant the following relief: To vacate, set aside convictions and sentences. To restore to Mr. Massey all of his lawfully owned property seized by the government on Aug. 29, 2014 and Oct. 20, 2014, or just and proper compensation for aforementioned seized property or any other relief to which movant may be entitled. at full market value. Finally to expunge from the records said convictions and sentences.

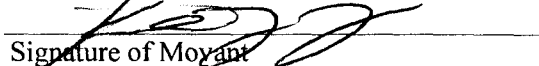
without Prejudice


Signature of Attorney (if any) *pro se*

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on September 6, 2017.
(month, date, year)

Executed (signed) on September 6, 2017 (date)

without Prejudice


Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

STATEMENT OF FACTS

1. I am a sovereign Man, above the age of consent;
2. I am a Texas Citizen and resident;
3. I am of sound mind;
4. I have inalienable rights, as expressed in the Declaration of Independence and U.S. Constitution;
5. I have enumerated rights expressed in the United States Constitution and Bill of Rights;
6. I have un-enumerated rights as expressed in the 9th and 10th amendments to the United States Constitution;
7. I have the right of Self-Protection, also expressed under the 2nd Amendment to the United States Constitution;
8. I am not a citizen of the United States under the 14th Amendment of the U.S. Constitution;
9. I am not under the jurisdiction of the United States government;
10. I am not subject to the Jurisdiction of the United States States government;
11. I have a right to Life, Liberty, and the pursuit of Happiness;
12. I have not created a victim;
13. The Federal Government is an Agent for the sovereign people;
14. I do not give up any of my rights;
15. The Federal Government is charged with protecting my rights from forces of government;
16. I am not a criminal;
17. I am not a felon in the historical sense of the word.
1600 AD up to the early 20th Century;

STATEMENT OF FACTS, Continued

18. I have not ever been engaged in the activity of Commerce between the States of Foreign Nations;
19. I am held against my will by the Federal Government in a Federal Prison;
20. I have been deprived of my lawful property by the Federal Government;
21. I have been denied my inalienable rights, my enumerated rights, and my un-enumerated rights by the United States Federal Government;
22. The Federal government has violated its duty to protect my rights, and;
23. I invoke all of my rights stated and unstated.

**Motion to Vacate, Set Aside, or Correct a Sentence
By a Person in Federal Custody**

(Motion Under 28 U.S.C. § 2255)

Instructions

1. To use this form, you must be a person who is serving a sentence under a judgment against you in a federal court. You are asking for relief from the conviction or the sentence. This form is your motion for relief.
2. You must file the form in the United States district court that entered the judgment that you are challenging. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file the motion in the federal court that entered that judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. If you cannot pay for the costs of this motion (such as costs for an attorney or transcripts), you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this motion, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different judge or division (either in the same district or in a different district), you must file a separate motion.
8. When you have completed the form, send the original and 2 copies to the Clerk of the United States District Court at this address:

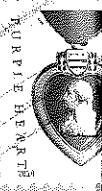
Clerk, United States District Court for
Address
City, State Zip Code

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.

9. **CAUTION:** You must include in this motion all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this motion, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

⇨76555-379⇨

K Massey
Federal Correctional
PO BOX 9000
Seagoville, TX 75159
United States



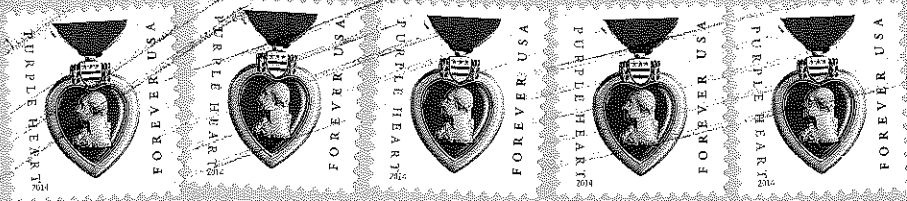
MAIL
United States District Court
Southern District of Texas

SEP 11 2017

RECEIVED
David L Bradley, Clerk of Court

⇨76555-379⇨

Us Courthouse
Court Clerk
600 E Harrison ST
ROOM 1158
Brownsville, TX 78520
United States



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Brownsville, TX 78520
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UNITED STATES